

the total savings per reactor per year will be:

$$2 \text{ guards/reactor} \times 50 \text{ days/outage} \times \frac{2}{3} \text{ outages/year} \times \$30/\text{hr-guard} \times 24 \text{ hrs/day} = \$48,000/\text{year-reactor}.$$

With 110 operating nuclear power reactors, the total savings for the industry are potentially \$5,280,000/year. Moreover, deletion of § 73.55(d)(8) results in a decrease in occupational exposure because security personnel will no longer be required to be within the radiation controlled area directly adjacent to containment.

Reactor containment or adjacent areas that provide access to containment are already vital areas. Thus, access of personnel into containment is already controlled. In addition, having security personnel control access of materials into containment provides no substantial benefit since material access into the protected area is already controlled and the containment is located within the protected area. Furthermore, after reactor containment is secured following periods of heavy traffic, existing NRC requirements for walkdown inspections and security searches apply and assure the security of the containment. Hence, the requirement that access into the reactor containment itself be separately controlled provides little or no additional security.

In addition, because a reactor containment is a vital area, it is subject to the vital area requirements for locks and alarms contained in other sections of § 73.55, as well as all other policies and procedures related to vital areas and equipment. Thus, the requirement for locks and alarms in paragraph (d)(8) is redundant.

Based on the above discussion, the NRC concludes that eliminating § 73.55(d)(8) provides relief to the licensees and lowers occupational exposure without compromising physical protection of licensed activities against radiological sabotage at nuclear power reactors.

### Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only licensees authorized to operate nuclear power reactors. These licensees do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act, or the size standards established by the NRC (10 CFR 2.810).

### Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because this amendment does not impose new requirements on existing 10 CFR Part 50 licensees. It is voluntary and should the licensee decide to implement this amendment, it is a reduction in burden to the licensee. Therefore, a backfit analysis has not been prepared for this amendment.

### List of Subjects in 10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 73.

### PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 continues to read as follows:

**Authority:** Secs. 53, 161, 68 Stat. 930, 948, as amended; sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended; sec. 204, 88 Stat. 1242, as amended, 1245; sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

#### § 73.55 [Amended]

2. In § 73.55, paragraph (d)(8) is removed and paragraph (d)(9) is redesignated as (d)(8).

Dated at Rockville, Maryland, this 21st day of August 1995.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

[FR Doc. 95-22187 Filed 9-6-95; 8:45 am]

BILLING CODE 7590-01-P

### SECURITIES AND EXCHANGE COMMISSION

#### 17 CFR Part 201

[Release No. 34-36174; File No. S7-40-92]

RIN 3235-AF91

#### Rules of Practice; Technical Amendments and Corrections

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Technical amendments and corrections to final rules.

**SUMMARY:** This document contains technical amendments and corrected comments for the Securities and Exchange Commission's Rules of Practice adopted on June 9, 1995 and published Friday, June 23, 1995 (60 FR 32738). The Rules of Practice are the procedural rules that govern Commission administrative proceedings.

**EFFECTIVE DATE:** September 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Andrew Z. Glickman, Office of the General Counsel at (202) 942-0870; U.S. Securities and Exchange Commission; 450 Fifth Street, NW., Stop 6-6; Washington, DC 20549.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Commission recently consolidated its inspection and examination functions from the Divisions of Market Regulation and Investment Management into a new office—the Office of Compliance Inspections and Examinations. See 60 FR 39643 (Aug. 3, 1995) (establishment of office and delegation of authority). This release contains technical amendments to reflect these changes in the Rules of Practice and corrections to the comments associated with the changed rules. This release also corrects a citation error.

Comments (a) and (b) to Rule 230 (which originally appeared in the Supplementary Information section on page 32762, in the tenth line of the first column) are corrected to read as follows:

*Comment (a):* A respondent's right to inspect and copy documents under this rule is automatic; the respondent does not need to make a formal request for access through the hearing officer. Generally, the rule requires that the Division of Enforcement make available for inspection and copying documents obtained by the Division from persons not employed by the Commission during the course of its investigation prior to the institution of proceedings.

Final inspection or examination reports prepared by the Office of Compliance Inspections and Examinations, the Division of Market Regulation or the Division of Investment Management, may be attorney work product, and other privileges may apply to such reports. Nonetheless, the Commission has determined as a general matter that these final reports will be made available, but only to named respondents in Commission-initiated adjudicative proceedings. This rule does not restrict the Commission's ability to withhold these reports from public disclosure in other contexts, such as pursuant to a request under the Freedom of Information Act. 5 U.S.C. 552.

Rule 230 is not the exclusive means by which a respondent may obtain access to or production of documents. Production of documents prepared by the staff may be required under the doctrine of *Brady v. Maryland*, 373 U.S. 83 (1963), or pursuant to Jencks Act requirements made applicable to the Commission pursuant to Rule 231, or may be sought by subpoena pursuant to Rule 232 or through other procedures. See, e.g., Freedom of Information Act, 5 U.S.C. 552.

The Rule states that the Division of Enforcement shall (1) make available for inspection and copying (2) documents (3) obtained by the Division (4) in connection with the investigation leading to the institution of proceedings.

(1) The Division of Enforcement is required to make documents available for inspection and copying. It is not required to produce a copy of the documents to each respondent.

(2) The definition of the term "documents" in paragraph (a) is modeled on the definition of documents in Rule 34 of the Federal Rules of Civil Procedure.

(3) The Division of Enforcement's obligation under this rule relates to documents obtained by the Division of Enforcement. Documents located only in the files of other divisions or offices are beyond the scope of the rule.

(4) The "investigation leading to the Division's recommendation to institute proceedings" ordinarily is delineated by the investigation number or numbers under which requests for documents, testimony or other information were made. When an investigation is initiated by the Division of Enforcement it is assigned a number, often referred to as the "case" or "investigation" number. Each request for documents, testimony or other information from persons not employed by the Commission specifies the investigation or preliminary investigation number to which it relates.

In turn, each written recommendation by the Division of Enforcement to institute proceedings identifies on its cover page, by investigation number, the source investigation or investigations to which it relates. Accordingly, the identity and content of the appropriate investigation file or files from which documents must be made available can be based on objective criteria.

*Comment (b):* Under paragraph (b), the Division can withhold documents under four exceptions. Exception (1) shields information subject to a claim of privilege. Exception (2) protects as attorney work product internal documents prepared by Commission employees, which will not be offered in evidence. Work product includes any notes, working papers, memoranda or other similar materials, prepared by an attorney in anticipation of litigation. See *Hickman v. Taylor*, 329 U.S. 495 (1947); see also Fed. R. Civ. P. 26 (b)(3) and (b)(5). Except to the limited extent specifically provided in paragraph (a), documents prepared by Commission staff are treated as attorney work product, and do not have to be made available pursuant to this rule. Accountants, paralegals and investigators who work on an investigation do so at the direction of the director, an associate director, an associate regional administrator or another supervisory attorney, and their work product is therefore shielded by the rule. A respondent's claim that work product should be turned over will necessarily be evaluated on a case-by-case basis.

Exception (3) protects the identity of a confidential source. See 5 U.S.C. 552(b)(7) (C) and (D). Exception (4) protects any other document or category of documents that the hearing officer determines may be withheld as not relevant to the subject matter of the proceeding, or otherwise for good cause shown. This exception provides a mechanism to address a situation where a single investigation involves a discrete segment or segments that are related only indirectly, or not at all, to the recommendations ultimately made to the Commission with respect to the particular respondents in a specific proceeding. To require that documents not relevant to the subject matter of the proceeding be made available, simply because they were obtained as part of a broad investigation, burdens the respondent as well as the Division of Enforcement with unnecessary costs and delay.

For example, a single investigation may encompass inquiry into an issuer's allegedly false accounting disclosure and an unrelated manipulation of the

issuer's securities by a third party. If the recommendation to the Commission and resulting administrative proceeding involve only the accounting disclosures, the Division could seek leave to withhold trading records, transcripts and other documents related to the manipulation investigation.

*Comment (a):* Rule 430 (which originally appeared in the Supplementary Information section on page 32777, in the fifth line of the second column) is corrected to read as follows:

*Comment (a):* Congress granted the Commission explicit authority to delegate certain functions to an individual commissioner, division directors and others in 1962. Pub. L. No. 87-592, 76 Stat. 394. This authority appears in Sections 4A and 4B of the Exchange Act, 15 U.S.C. 78d-1 and 78d-2, and was amended most recently in 1987. See Pub. L. No. 100-181, Title III, section 308(a), 101 Stat. 1254. The predecessor rule to Rules 430 and 431, former Rule 26, was adopted in 1963. See Securities Act Release No. 4588 (Mar. 8, 1963) (adopting release).

Due to the different nature of matters delegated to hearing officers, senior staff or the duty officer, the Commission's rules provide different mechanisms for review of such actions. See Rules 410 and 411 (procedures relating to initial decisions by a hearing officer); 17 CFR 200.42 (procedures relating to duty officer). Rule 430 relates to certain delegations made to staff. It applies only to review of actions taken pursuant to authority delegated in 17 CFR 200.30-1 through 200.30-18. Authority delegated by other provisions—for example, the delegation of authority to issue subpoenas pursuant to a private order directing investigation ("formal order")—is not subject to the Rule.

#### Correction of Publication

Accordingly, the publication on June 23, 1995 of the final Rules of Practice, which were the subject of FR Doc. 95-14750, is corrected as follows:

#### § 201.100 [Corrected]

1. On page 32797, in the eighth line of the first column, in § 201.100(b)(2) "17 CFR 200.42." is corrected to read "17 CFR 200.43."

#### § 201.230 [Corrected]

2. On page 32807, in the first column, in § 201.230, paragraph (a)(1)(vi) is corrected to read as follows:

"(vi) Any final examination or inspection reports prepared by the Office of Compliance Inspections and Examinations, the Division of Market

Regulation, or the Division of Investment Management.”

#### **§ 201.430 [Corrected]**

3. On page 32814, in the first column, last line, in § 201.430(a) the reference to “200.30–17” is corrected to read “200.30–18”.

4. On page 32814, in the second column, in § 201.430(c) the reference to “200.30–17” is corrected to read “200.30–18”.

#### **§ 201.431 [Corrected]**

5. On page 32814, in the second column, in the sixth line of § 201.431(a) “200.30–17” is corrected to read “200.30–18”.

Dated: August 31, 1995.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–22110 Filed 9–6–95; 8:45 am]

BILLING CODE 8010–01–P

## **INTERNATIONAL TRADE COMMISSION**

### **19 CFR Part 206**

#### **Implementing Rules for the Uruguay Round Agreements Act**

**AGENCY:** International Trade Commission.

**ACTION:** Adoption of interim rules as final rules.

**SUMMARY:** The Commission has adopted as final rules, without change, interim rules that amend part 206 of the Commission’s rules to conform its rules of practice and procedure with amendments made to sections 201–204 of the Trade Act of 1974 (19 U.S.C. 2251–2254) by the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465, 108 Stat. 4809 (1994)). The URAA, among other things, amended sections 201–204 of the Trade Act to bring U.S. law into conformity with the Uruguay Round Agreement on Safeguards.

**EFFECTIVE DATE:** September 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202–205–1810.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The interim rules were published in the **Federal Register** on January 3, 1995

(60 FR 10). The interim amendment to section 206.17 was effective January 3, 1995; all other amendments were effective January 1, 1995. Comments on the interim rules were required to be received on or before April 3, 1995. No comments were received.

Accordingly, the Commission has adopted as final rules, without change, the interim rules amending 19 CFR part 206 that were published at 60 FR 10 on January 3, 1995.

#### **List of Subjects in 19 CFR Part 206**

Administrative practice and procedure, Investigations, Imports.

**Authority:** 19 U.S.C. 1335; 19 U.S.C. 2251–2254, 3351–3382; secs. 103, 301–302, Pub. L. 103–465, 108 Stat. 4809.

By order of the Commission.

Issued: August 30, 1995.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 95–22235 Filed 9–6–95; 8:45 am]

BILLING CODE 7020–02–P

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Parts 1, 4 and 602**

[TD 8618]

RIN 1545–AM15

#### **Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final Income Tax Regulations governing the definition of a controlled foreign corporation and the definitions of foreign base company income and foreign personal holding company income of a controlled foreign corporation. These regulations are necessary because of changes made to the prior law by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the Revenue Reconciliation Act of 1989, and the Omnibus Budget Reconciliation Act of 1993. Certain conforming changes in the regulations were necessary because of changes made by the Deficit Reduction Act of 1984. The regulations will provide the public with the guidance to comply with those acts and will affect United States shareholders of controlled foreign corporations.

**DATES:** These regulations are effective September 7, 1995.

For dates of applicability, see § 1.954–0(a).

**FOR FURTHER INFORMATION CONTACT:** Valerie Mark of the Office of Associate Chief Counsel (International), within the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention CC:INTL:2 (INTL–0362–88)). Telephone (202) 622–3840 (not a toll-free call).

#### **SUPPLEMENTARY INFORMATION:**

##### **Paperwork Reduction Act**

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1068. The estimated average burden per respondent associated with the collection of information in this regulation is one hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

##### **Background**

This document contains final regulations amending the Income Tax Regulations (26 CFR Part 1) under sections 954(b), 954(c) and 957(a) of the Internal Revenue Code (Code). Sections 954 and 957 were amended by sections 1201, 1221, 1222 and 1223 of the Tax Reform Act of 1986 (Pub. L. 99–514), by section 1012 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647), by section 7811 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239) and by section 13233 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). These regulations are also issued under authority contained in section 7805 of the Code.

Temporary regulations (TD 8216) and a cross-referenced notice of proposed rulemaking (INTL–362–88) under sections 954 and 957 of the Code were published in the **Federal Register** on July 21, 1988 (53 FR 27489 and 53 FR 27532, respectively). Numerous written comments on the proposed and temporary regulations were received from the public. As explained below,